

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

GEA MECHANICAL EQUIPMENT US, INC.,

Plaintiff,

v.

FIRST STATE INSURANCE
COMPANY, ET AL.,

Defendants.

Civil Action No. 2-20-cv-
09741-BRM-ESK

Hon. Brian R. Martinotti,
U.S.D.J.

Hon. Edward S. Kiel,
U.S.M.J.

**CERTIFICATION OF DONALD W. KIEL IN SUPPORT OF
PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT**

I, Donald W. Kiel, hereby certify as follows:

1. I am an attorney-at-law of the State of New Jersey and a partner at K&L Gates LLP, counsel for Plaintiff GEA Mechanical Equipment US, Inc. (“GEA Mechanical”), in the above-captioned action.
2. I submit this certification in support of GEA Mechanical’s Motion for Summary Judgment (the “Motion”).
3. Attached hereto as **Exhibit 1** is a true and correct copy of a document titled Stipulation Regarding Allocation Between Plaintiff GEA Mechanical Equipment US, Inc. and Defendants First State Insurance Company, Hartford

Accident and Indemnity Company, Hartford Fire Insurance Company,¹ Wellfleet New York Insurance Company,² and Continental Insurance Company.³

4. Attached hereto as **Exhibit 2** is a true and correct copy of a document titled Plaintiff's Responses and Objections to Interrogatories by Defendants Continental and AIIC.
5. Attached hereto as **Exhibit 3** is a true and correct copy of a document titled Amended Complaint and Demand for Jury Trial, as produced in this litigation by GEA Mechanical at GEA_00000001 - GEA_00000015.
6. Attached hereto as **Exhibit 4** is a true and correct copy of the transcript of the deposition of Stuart Weinstein, Aug. 31, 2021 (the "Weinstein Dep.").
7. Attached hereto as **Exhibit 5** is a true and correct copy of the expert report of Elizabeth O'Neill, Nov. 12, 2021.
8. Attached hereto as **Exhibit 6** is a true and correct copy of a document titled Verdict Form from the action captioned *Thornton, et al. v. GEA Mechanical Equipment US, Inc.*, Case No. 17-006018 CA 42, in the Circuit Court of the

¹ First State Insurance Company, Hartford Accident and Indemnity Company, and Hartford Fire Insurance Company are hereinafter collectively referred to as "Hartford."

² Wellfleet New York Insurance Company, as successor in interest to Atlanta International Insurance Company, is also referred to herein as "AIIC."

³ Continental Insurance Company is also referred to herein as "Continental."

11th Judicial Circuit in and for Miami-Dade County, Florida (the “Thornton Action”), June 17, 2019, as produced in this litigation at GEA_00000027 - GEA_00000028.

9. Attached hereto as **Exhibit 7** is a true and correct copy of a document titled Final Judgment by Judge from the Thornton Action, June 19, 2019, as produced in this litigation at GEA_00000029 - GEA00000031.
10. Attached hereto as **Exhibit 8** is a true and correct copy of a document titled Settlement Agreement and General Release, Sept. 24, 2019, as produced in this litigation at GEA_00068194 - GEA_00068203.
11. Attached hereto as **Exhibit 9** is a true and correct copy of the transcript of the deposition of Jamieson Greig, Oct. 1, 2021 (the “Greig Dep.”).
12. Attached hereto as **Exhibit 10** is a true and correct copy of a letter from Jamieson Greig, dated Apr. 7, 2011, as produced in this litigation at GEA_00061855 - GEA_00061856.
13. Attached hereto as **Exhibit 11** is a true and correct copy of a letter from Pamela L. Labaj, dated Mar. 4, 2009, as produced in this litigation at GEA_00014301 - GEA_00014302.
14. Attached hereto as **Exhibit 12** is a true and correct copy of a letter from Casey A. Rigby, dated July 20, 2011, as produced in this litigation at GEA_00070675 - GEA_00070680.

15. Attached hereto as **Exhibit 13** is a true and correct copy of the transcript of the deposition of Timothy Brady, July 15, 2021 (the “Brady Dep.”).
16. Attached hereto as **Exhibit 14** is a true and correct copy of an email chain from Casey A. Rigby, as produced in this litigation at GEA_00068311 - GEA_00068314.
17. Attached hereto as **Exhibit 15** is a true and correct copy of a letter from Jamieson Greig, dated Aug. 6, 2019, as produced in this litigation at AIIC00024 - AIIC00076.
18. Attached hereto as **Exhibit 16** is a true and correct copy of a letter from Jamieson Greig, dated Aug. 5, 2019, as produced in this litigation at HART005950 - HART005951.
19. Attached hereto as **Exhibit 17** is a true and correct copy of the transcript of the deposition of Thomas Barriball, Aug. 11, 2021 (the “Barriball Dep.”).
20. Attached hereto as **Exhibit 18** is a true and correct copy of an email from Yvette Pappoe, dated Sept. 13, 2019, as produced in this litigation at GEA_00060686.
21. Attached hereto as **Exhibit 19** is a true and correct copy of an email from Yvette Pappoe, dated Sept. 13, 2019, as produced in this litigation at GEA_00068351 - GEA_00068352.

22. Attached hereto as **Exhibit 20** is a true and correct copy of an email from Joseph C. Safar, dated Sept. 13, 2019, as produced in this litigation at GEA_00070260.
23. Attached hereto as **Exhibit 21** is a true and correct copy of an email from Tara L. Pehush, dated Sept. 15, 2019, as produced in this litigation at GEA_00067829 - GEA_00067831.
24. Attached hereto as **Exhibit 22** is a true and correct copy of an email from Dan NiCastro, dated Sept. 24, 2019, as produced in this litigation at GEA_00068262 - GEA_00068263.
25. Attached hereto as **Exhibit 23** is a true and correct copy of a letter from James M. Gardner, dated Sept. 16, 2019, as produced in this litigation at GEA_00068333 - GEA_00068334.
26. Attached hereto as **Exhibit 24** is a true and correct copy of a letter from Richard Merritt, dated Sept. 20, 2019, as produced in this litigation at GEA_00070143 - GEA_00070149.
27. Attached hereto as **Exhibit 25** is a true and correct copy of a letter from James M. Gardner, dated Sept. 24, 2019, as produced in this litigation at GEA_00008775 - GEA_00008776.

28. Attached hereto as **Exhibit 26** is a true and correct copy of a letter from Jamieson Greig, dated Jan. 7, 2020, as produced in this litigation at GEA_00070956 - GEA_00071023.
29. Attached hereto as **Exhibit 27** is a true and correct copy of a document titled Stipulation Between Plaintiff GEA Mechanical Equipment US, Inc. and Wellfleet New York Insurance Company Regarding Authenticity and Completeness of Policy.
30. Attached hereto as **Exhibit 28** is a true and correct copy of a document titled Stipulation Between Plaintiff GEA Mechanical Equipment US, Inc. and Continental Insurance Company Regarding the Existence, Authenticity, and Terms and Conditions of Policies.
31. Attached hereto as **Exhibit 29** is a true and correct copy of a document titled Stipulation Between Plaintiff GEA Mechanical Equipment US, Inc. and First State Insurance Company, Hartford Accident and Indemnity Company, and Hartford Fire Insurance Company Regarding Authenticity and Completeness of Policies.
32. Attached hereto as **Exhibit 30** is a true and correct copy of the transcript of the deposition of Elizabeth O'Neill, Mar. 3, 2022 (the "O'Neill Dep.").
33. Attached hereto as **Exhibit 31** is a true and correct copy of the transcript of the deposition of Bernd G. Heinze, Mar. 15, 2022 (the "Heinze Dep.").

34. Attached hereto as **Exhibit 32** is a true and correct copy of a document titled AIIC's Response to Plaintiff's First Set of Interrogatories Directed to All Defendants.
35. Attached hereto as **Exhibit 33** is a true and correct copy of a document titled Continental's Second Supplemental Response to Plaintiff's First Set of Interrogatories Directed to All Defendants.
36. Attached hereto as **Exhibit 34** is a true and correct copy of a document titled Plaintiff's First Set of Interrogatories Directed to All Defendants.
37. Attached hereto as **Exhibit 35** is a true and correct copy of Hartford's Amended Responses and Objections to Interrogatory Nos. 37, 43, 44, and 47 of GEA Mechanical's First Set of Interrogatories Directed to All Defendants, dated Aug. 30, 2021.
38. Attached hereto as **Exhibit 36** is a true and correct copy of a document titled Plaintiff's Second Supplemental Set of Requests for Production of Documents Directed to All Defendants.
39. Attached hereto as **Exhibit 37** is a true and correct copy of a document titled AIIC's Response to Plaintiff's Second Supplemental Set of Requests for Production of Documents Directed to All Defendants.

40. Attached hereto as **Exhibit 38** is a true and correct copy of a document titled Continental's Response to Plaintiff's Second Supplemental Set of Requests for Production of Documents Directed to All Defendants.
41. Attached hereto as **Exhibit 39** is a true and correct copy of a document titled Responses and Objections to Plaintiff's Second Supplemental Set of Requests for Production of Documents Directed to All Defendants, which was served by Hartford.
42. Attached hereto as **Exhibit 40** is a true and correct copy of an email from John Maloney, dated July 12, 2021.
43. Attached hereto as **Exhibit 41** is a document titled Report of Defendants' Expert Witness, Bernd G. Heinze, dated Nov. 15, 2021.
44. Attached hereto as **Exhibit 42** is a document titled Rebuttal Report of Defendants' Expert Witness, Bernd G. Heinze, dated Feb. 14, 2022.
45. Attached hereto as **Exhibit 43** is a true and correct copy of the rebuttal report of Elizabeth O'Neill, dated Feb. 15, 2022.
46. Attached hereto as **Exhibit 44** is a true and correct copy of the Affidavit of Marc P. Kunen, dated Oct. 28, 2021.
47. Attached hereto as **Exhibit 45** is a true and correct copy of a document which includes a Loss Run generated by Hartford, as produced in this litigation at HART006010 - HART006015.

48. Attached hereto as **Exhibit 46** is a true and correct copy of a document titled Responses and Objections to Plaintiff's First Set of Interrogatories Directed to All Defendants, which was served by Hartford.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Respectfully submitted,

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Dated: June 24, 2022

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